

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

MUR: No. 04-0064

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

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On behalf of the Citizens Clean Elections Commission ("Commission"), the External Investigative Consultant hereby provides the Statement of Reasons showing no reason to believe violations of the Citizens Clean Elections Act and Commission rules occurred.

**I. Procedural Background**

On March 15, 2005, Patrick Meyers ("Complainant") filed a complaint against Steve Gallardo ("Respondent"), a participating candidate for State Representative District 13, alleging that Respondent failed to pay the vendor directly for goods and services. Exhibit A. On April 1, 2005, Respondent responded to the complaint and provided supporting documentation for the campaign expenditures. Exhibit B. Respondent's campaign finance report for the 2004 election cycle is attached as Exhibit C.

**II. Alleged Violations**

1. Respondent reported payment of \$3,000.00 made on August 17, 2004 to Primary Consultants for Campaign Mailing, and Respondent reported payment of \$1,500.00 made on July 22, 2004 for Consulting. Complainant alleges that Primary Consultants is not a printer, mail house, or postage vender, and that Mr. Gallardo's campaign was paying its consultant for work that was being sub-contracted to other vendors. In response to the allegation, Respondent explains that Primary Consultants was paid \$550.00 for consulting, then subcontracted printing to J & R Graphics and Printing for \$855.66; mailing and postage to Drum Mailing for \$1,269.34; and graphic design to Kathy Reed Graphic Designs for \$325.00. The payment to Primary Consultants on July 22, 2004 for \$1,500.00 was for consulting. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

2 & 3. Respondent reported payment of \$4,531.65 made on September 7, 2004 to Primary Consultants for VBM Chaser and Campaign Mailing. Respondent also reported payment of \$2,242.12 made on September 13, 2004 to Primary Consultants for Campaign Consultant. Complainant alleges that Primary Consultants is not a printer, mail house, or postage vendor, therefore Respondent failed to pay the vendor directly. Complainant also challenges the large amount of money paid for consulting.

Respondent explained that the sum of the payments, \$6,773.77, were expenditures for services from several invoices from Primary Consultants dating between August 19 and September 8, 2004. In response to the allegation, Respondent explains that Primary Consultants subcontracted printing to J & R Graphics and Printing; mailing and postage to Drum Mailing; mailing lists to Blaemire Communications; and graphic design to Kathy Reed

Graphic Designs. Exhibit B.

<b>Date</b>	<b>Invoice #</b>	<b>Sub-Vendor</b>	<b>Description</b>	<b>Sub-vendor Amount</b>	<b>Invoice Total</b>
8/19/2004	14277	J&R Graphics	Printing	\$ 760.66	
		Drum Mailing	Postage/Mailhouse	1,054.34	
		Kathy Reed	Graphics	195.00	
		Primary Consultants	Direct mail writing	750.00	
		Drum Mailing	Postage/Mailhouse	2,420.85	5,180.85
8/19/2004	14284	Drum Mailing	Postage/Mailhouse	52.08	52.08
8/25/2004	14290	Drum Mailing	Postage/Mailhouse	242.81	242.81
8/26/2004	14292	Drum Mailing	Postage/Mailhouse	175.05	175.05
8/31/2004	14296	Drum Mailing	Postage/Mailhouse	399.87	399.87
9/02/2004	14304	Drum Mailing	Postage/Mailhouse	74.95	74.95
9/08/2004	14306	Drum Mailing	Postage/Mailhouse	177.08	
		Drum Mailing	Postage/Mailhouse	250.08	
		Blaemire Comm.	Mailing List	225.00	652.16
				<u>\$ 6,773.77</u>	<u>\$ 6,773.77</u>

The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as the invoice was paid on September 7, 2004 and the work was performed prior to this date. The invoices were for the period between August 19, 2004 and September 8, 2004, and were reported as expenditures within a timely manner.

As a participating candidate, Respondent was not required to file the trigger reports as expenditures were made prior to the primary election. Pursuant to A.R.S §§ 16-941(B) & -958, nonparticipating candidate shall file an original and supplemental reports when expenditures exceed 70 percent and 10 percent, respectively, of the primary election spending limit and shall file the reports within one business day of reaching the trigger during the last two weeks of the election. Rather, participating candidates shall comply with the reporting deadlines set forth in A.R.S § 16-913(B)(2), which required all campaign activity that occurred between August 19, 2004 and September 27, 2004 be reported no later than October 7, 2004, in the Post-Primary Report. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to Primary Consultants for mailers produced and mailed just days before the primary election in the Post-Primary Report.

4. Respondent reported payment of \$1,699.74 on October 12, 2004 to Primary Consultants for VBM Chases. Complainant alleges that Primary Consultants is not a printer, mail house, or postage vender, therefore Respondent failed to pay the vendor directly. In response to the allegation, Respondent explains that Primary Consultants subcontracted mailing and postage to Drum Mailing for \$1,699.74. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

5. Respondent reported payment of \$500.63 on November 2, 2004 to J & R Graphics and Printing for campaign t-shirts and door hangers. Complainant alleges that

November 2, 2004 was the date of the general election and that the expenditure was not reported in a timely manner. Respondent explains that the materials were ordered on October 29, 2004 for use on Election Day. The materials were not received until November 1, 2004 and the invoice was received on November 2, 2004. Exhibit B. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to J&R Graphics for t-shirts and door hangers produced just days before the general election in the Post-General Report.

6. Respondent reported a payment of \$140.62 on November 2, 2004 to J & R Graphics and Printing for Election Day cards. Complainant alleges that November 2, 2004 was the date of the general election and that the expenditure was not reported in a timely manner. Respondent explains that the materials were ordered on October 29, 2004 for use on Election Day. The materials were not received until November 1, 2004 and the invoice was received on November 4, 2004. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to J&R Graphics for Election Day cards produced just days before the general election in the Post-General Report.

7. Respondent reported a payment of \$4,383.74 on November 3, 2004 to Primary Consultants for VBM chase and Election Day voters. Complainant alleges that Primary Consultants is not a printer, mail house, or postage vender, therefore Respondent failed to pay the vendor directly. Complainant also alleges that November 2, 2004 was the date of the general election and that the expenditure was not reported in a timely manner. In response to the allegation, Respondent explains that the \$4,383.74 is a payment to Primary Consultants for five invoices provided to the Respondent between October 14 and November 22, 2004, and included amended invoices.

In addition, Respondent acknowledges a mistaken double reporting of \$1,699.74 invoice because the first check written for this amount was lost in the mail, and as the second check was written, it was mistakenly reported as a second payment in a separate expenditure. In addition, Primary Consultants subcontracted mailing and postage to Drum Mailing; graphic design to Kathy Reed Graphics; printing to J & R Graphics and Printing; and mailing list services to Blaemire Communications. Respondent included amended invoices. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing and includes the correction of the \$1,699.74 payment. Exhibit C.

<b>Date</b>	<b>Invoice #</b>	<b>Sub-Vendor</b>	<b>Description</b>	<b>Sub-vendor Amount</b>	<b>Invoice Total</b>
10/18/2004	14343	Drum Mailing	Postage/Mailhouse	\$ 310.42	\$ 310.42
10/21/2004	14351	Drum Mailing	Postage/Mailhouse	156.14	
		J&R Graphics	Printing	739.40	
		Kathy Reed	Graphic Design	190.00	1,085.54
10/25/2004	14365	Drum Mailing	Postage/Mailhouse	325.70	325.70
10/27/2004	14376	Drum Mailing	Postage/Mailhouse	502.66	502.66
10/29/2004	14388	Drum Mailing	Postage/Mailhouse	209.69	
		Blaemire Comm.	Mailing List	<u>\$ 250.00</u>	<u>\$ 459.68</u>
				<u>\$ 2,684.00</u>	<u>\$ 2,684.00</u>

Claimant also questioned if Respondent is reporting expenditures as they incurred, as the invoice was paid on November 3, 2004 and the work was performed prior to this date. The invoices were for the period between October 18, 2004 and October 29, 2004, and were reported as expenditures within a timely manner, as previously explained.

### **III. No Reason to Believe Finding**

Based on the complaint, Respondent's response, invoices and Respondent's campaign finance report, the External Investigative Consultant recommends the Commission finds no reason to believe violations of the Act or Commission rules occurred. Pursuant to A.A.C. R2-20-206, the Commission shall dismiss the complaint upon finding no reason to believe the alleged violations occurred.

Dated this \_\_\_\_ day of July, 2005

By: \_\_\_\_\_  
L. Gene Lemon  
External Investigative Consultant